

### **REMARKS/ARGUMENTS**

This reply is in response to the Final Office Action dated November 19, 2007. Claims 23-49 are pending in the application and stand rejected. Reconsideration of the claims is respectfully requested.

#### **35 U.S.C. §103(a)**

Claims 23-49 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Lind et al. (U.S. Patent Publication No. 2001/0003624; hereafter "Lind") in view of Agouri et al. (U. S. Patent No. 4,126,648; hereafter "Agouri"). Applicants disagree and respectfully traverse the rejection.

The Examiner states that the rejection of record on page 2 of the "previous Action, is repeated." In the previous Action, the Examiner stated, "Lind et al. disclose a multilayer film (paragraph [0013]) comprising three layers (at least one layer; paragraph [0013]) of a blend of high density polyethylene and low density polyethylene which are made from metallocene catalysts and are therefore metallocene polyethylenes (paragraph [0013]); the metallocene polyethylene has a density of 0.940 g/cm<sup>3</sup> (paragraph [0020]); Lind et al. therefore disclose a and [sic] A/B/A structure, wherein the A layers are [sic] comprise a blend comprising a metallocene polyethylene having a density between 0.915 to 0.940 g/cm<sup>3</sup>, and the B is a core layer comprising a blend comprising a high density polyethylene and a low density polyethylene." However, the Examiner now argues that "Lind et al. is not limited to a film comprising a barrier layer; Lind also discloses a film comprising one layer comprising a single layer comprising an ethylene polymer (paragraph 0013) or a multilayer film comprising ethylene polymers made with a metallocene catalyst (paragraph [0013]) for providing increased strength and faster bag speeds (paragraph [0013]). Alternatively, the film may also comprise a barrier layer as disclosed in paragraph 0014, but paragraph [0014] is not mentioned in, and is not relevant to, the rejection."

Such new assertion by the Examiner appears to be a new ground of rejection. In short, the Examiner is now arguing that Lind teaches single layer films when all previous rejections were based on Lind's teaching a multi-layer film. Therefore, the "finality" of the present Action

is believed to be improper and withdrawal of same is respectfully requested. Notwithstanding, Lind clearly discloses, at paragraph [0014], that a multilayer film is optional, but such multilayer film must have a barrier layer. In other words, the barrier layer is not optional, contrary to the Examiner's assertions.

In any event, Lind does not teach, show, or suggest a core layer comprising a blend of LDPE and HDPE, as is required in every claim. Likewise, no combination of Lind and Agouri teach, show, or suggest the claimed invention. Agouri discloses single layer films, not multilayer films, as required in every claim. Therefore, a combination of Lind's single layer films (now asserted by the Examiner) and Agouri's single layer film does not teach, show, or suggest the claimed invention because that particular combination does not motivate or suggest a film comprising an A/B/A structure, as required in every claim.

Furthermore, a combination of Lind's multi-layer films (previously asserted by the Examiner) and Agouri's single layer film does not teach, show, or suggest the claimed invention because Lind discloses a multilayer film that requires a barrier layer that minimizes the transmission of oxygen through the structure. As noted above, the barrier layer is not optional in Lind. The disclosure of Lind is clearly directed to films for food packaging, which require a barrier layer. See, e.g., Lind at paragraphs [0002] to [0012]. For reasons already of record, HDPE and LDPE, which are required in every claim, do not exhibit oxygen and moisture barrier properties on par with those compositions described as suitable for use in the barrier layer of the films described by Lind. Accordingly, a person having ordinary skill in the art would not replace the barrier layer of Lind, i.e., its core layer, with a blend comprising HDPE and LDPE, as used in the core layer of the pending claims, because Lind teaches away from such a modification by requiring high oxygen and moisture barrier performance.

Therefore, any combination of Lind, no matter what interpretation the Examiner presents, and Agouri does not teach, show, or suggest the claimed invention. Withdrawal of the rejection and allowance of the claims is respectfully requested. Alternatively, withdrawal of the "Final" designation of the present Action is respectfully requested.

With regard to the percentages recited in the claims, the Examiner states, "the percentages of low density polyethylene and high density polyethylene alone are taught by

Agouri et al." Applicants disagree and respectfully request the Examiner to particularly cite to the disclosure of Agouri to support such assertion.

As previously noted by the Applicants, Agouri discloses monolayer films with a thickness less than 20 microns from styrene grafted LDPE/HDPE blends. See, e.g., Abstract and col. 1, line 62 through col. 2, line 8. The pre-formed combination or alloy of the LDPE/HDPE blends can have 55-85 wt.% LDPE and 45-15 wt.% HDPE and/or polypropylene, prior to grafting. Col. 2, ll. 16-20 (emphasis added). In other words, the presence of polypropylene is mandatory, not the presence of HDPE. There is insufficient disclosure and teaching in Agouri to back out any amount of polypropylene to determine an amount of LDPE and HDPE. Therefore, no conclusions on the actual weight percentages of a HDPE/LDPE blend can be drawn in view of Agouri. Therefore, there is not enough evidence from the references themselves to arrive at a film structure comprising an A/B/A structure, wherein core layer B comprises 60-90 wt.% LDPE, and 40-10 wt.% HDPE, as required in every claim.

Furthermore, there is no teaching, showing, or suggestion to replace the core layer of Lind with the layer disclosed in Agouri. At best, a combination of Lind and Agouri may suggest replacing the entire three layer structure of Lind with the single layer film of Agouri. However, replacing the core layer of Lind with the layer of Agouri, as suggested by the Examiner, would render the three layer structure of Lind unsatisfactory for its intended purpose, a film having good oxygen barrier properties, because of the poor oxygen barrier properties of HDPE and LDPE. Alternatively, a combination of Lind and Agouri may suggest replacing the single layer structure of Lind (now asserted by the Examiner) with the single layer film of Agouri. However, such combination does not arrive at a film comprising an A/B/A structure, as required in every claim. Therefore, a combination of Lind and Agouri does not arrive at the claimed invention, nor are the claims obvious in view of Lind and Agouri. Withdrawal of the rejection and allowance of the claims is respectfully requested.

## **CONCLUSION**

Having demonstrated that the cited references fail to disclose or suggest the invention as claimed, and all other formal issues having now been fully addressed, this application is believed to be in condition for allowance. Accordingly, Applicants request early and favorable reconsideration in the form of a Notice of Allowance.

If there are any questions regarding this amendment or the application in general, a telephone call to the undersigned would be appreciated, since this should expedite the prosecution of the application for all concerned.

If necessary to affect a timely response, this paper should be considered as a petition for an Extension of Time sufficient to affect a timely response. Please charge any deficiency in fees or credit any overpayments to Deposit Account No. 05-1712 (Docket #: 2003B101A).

Respectfully submitted,

Date: January 22, 2008

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